

§ 201.6 Withholding of payment; reduction of Federal financial participation in the costs of social services and training.

(a) *When withheld.* Further payments to a State are withheld in whole or in part if the Administrator, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of an approved plan, finds:

(1) That the plan no longer complies with the provisions of section 2, 402, 1002, 1402, or 1602 of the Act; or

(2) That in the administration of the plan there is failure to comply substantially with any such provision.

A question of noncompliance of a State plan may arise from an unapprovable change in the approved State plan, the failure of the State to change its approved plan to conform to a new Federal requirement for approval of State plans, or the failure of the State in practice to comply with a Federal requirement, whether or not its State plan has been amended to conform to such requirement.

(b) *When the rate of Federal financial participation is reduced.* Under title I, X, XIV, or XVI (AABD) of the Act, Federal financial participation in the costs of social services and training approved at the rate of 75 per centum is reduced to 50 per centum if the Administrator, after reasonable notice and opportunity for a hearing to the State agency, finds:

(1) That the plan provision under such title for prescribed services no longer complies with the Federal requirements with respect to such prescribed services; or

(2) That in the administration of the plan there is a failure to comply substantially with such plan provision.

(c) *Information discussions.* Hearings with respect to matters under paragraph (a) or (b) of this section are generally not called, however, until after reasonable effort has been made by the Administration to resolve the questions involved by conference and discussion with State officials. Formal notification of the date and place of hearing does not foreclose further negotiations with State officials.

(d) *Conduct of hearings.* For hearing procedures, see part 213 of this chapter.

(e) *Notification of withholding.* If the Administrator makes a finding of non-compliance with respect to a matter under paragraph (a) of this section, the State agency is notified that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the plan not affected by such failure), until the Administrator is satisfied that there will no longer be any such failure to comply. Until he is so satisfied, no further payments will be made to the State (or will be limited to categories under or parts of the plan not affected by such failure).

(f) *Notification of reduction in the rate of Federal financial participation.* If the Administrator makes a finding of non-compliance with respect to a matter under paragraph (b) of this section, the State agency is notified that further payments will be made to the State at the rate of 50 per centum of the costs of services and training, until the Administrator is satisfied that there will no longer be any failure to comply.

[35 FR 12180, July 29, 1970, as amended at 39 FR 34542, Sept. 26, 1974; 53 FR 36579, Sept. 21, 1988]

§ 201.7 Judicial review.

Any State dissatisfied with a final determination of the Secretary pursuant to § 201.4 or § 201.6(a) may, within 60 days after it has been notified of such determination, file with the U.S. Court of Appeals for the circuit in which such State is located a petition for review of such determination. After a copy of the petition is transmitted by the clerk of the court to the Secretary, the Secretary thereupon shall file in the court the record of proceedings upon which such determination was based as provided in section 2112 of title 28, United States Code. The court is bound by the Secretary's findings of fact, if supported by substantial evidence. The court has jurisdiction to affirm the Secretary's decision, or set it aside in whole or in part, or, for good cause, to remand the case for additional evidence. If the case is remanded, the Secretary may thereupon make new or modified findings of fact, and may modify his previous determination. The Secretary shall certify to the court the transcript and record of the further

proceedings. The judgment of the court is subject to review by the Supreme Court of the United States upon certiorari or certification as provided in 28 U.S.C. 1254.

Subpart B—Review and Audits

§ 201.10 Review of State and local administration.

(a) In order to provide a basis for determining that State agencies are adhering to Federal requirements and to the substantive legal and administrative provisions of their approved plans, the Administration conducts a review of State and local public assistance administration. This review includes analysis of procedures and policies of State and local agencies and examination of case records of individual recipients.

(b) Each State agency is required to carry out a continuing quality control program primarily covering determination of eligibility in statistically selected samples of individual cases. The Service conducts a continuing observation of these State systems.

(c) Adherence to other Federal requirements set forth in the pertinent titles of the Act and the regulations in this title is evaluated through review of selected case records and aspects of agency operations.

[35 FR 12180, July 29, 1970, as amended at 53 FR 36579, Sept. 21, 1988]

§ 201.11 Personnel merit system review.

A personnel merit system review is carried out by the Office of State Merit Systems of the Office of the Assistant Secretary for Administration of the Department. The purpose of the review is to evaluate the effectiveness of the State merit system relating to the public assistance programs and to determine whether there is compliance with Federal requirements in the administration of the merit system plan. See part 70 of this title.

§ 201.12 Public assistance audits.

(a) Annually, or at such frequencies as are considered necessary and appropriate, the operations of the State agency are audited by representatives of the Audit Agency of the Department.

Such audits are made to determine whether the State agency is being operated in a manner that:

(1) Encourages prudent use of program funds, and

(2) Provides a reasonable degree of assurance that funds are being properly expended, and for the purposes for which appropriated and provided for under the related Act and State plan, including State laws and regulations.

(b) Reports of these audits are released by the Audit Agency simultaneously to program officials of the Department, and to the cognizant State officials. These audit reports relate the opinion of the Audit Agency on the practices reviewed and the allowability of costs audited at the State agency. Final determinations as to actions required on all matters reported are made by cognizant officials of the Department.

§ 201.13 Action on audit and review findings.

(a) If the audit results in no exceptions, the State agency is advised by letter of this result. The general course for the disposition of proposed exceptions resulting from audits involves the submittal of details of these exceptions to the State agency which then has an opportunity to concur in the proposed exceptions or to assemble and submit additional facts for purposes of clearance. Provision is made for the State agency to appeal proposed audit exceptions in which it has not concurred and which have not been deleted on the basis of clearance material. After consideration of a State agency's appeal by the Administrator, the Administration advises the State agency of any expenditures in which the Federal Government may not participate and requests it to include the amount as adjustments in a subsequent statement of expenditures. Expenditures in which it is found the Federal Government may not participate and which are not properly adjusted through the State's claim will be deducted from subsequent grants made to the State agency.

(b) If the Federal or State reviews reveal serious problems with respect to compliance with any Federal requirement, the State agency is required to